

PUEBLO OF LAGUNA COUNCIL

Resolution No. 26-14

Re: Enacting Changes To The Criminal Code- Obstructing An Officer; Prohibiting Consumption, Use, Possession, And Procurement Of Alcohol To Individuals Under The Age Of Twenty-One Years; Increasing Penalties For Third And Subsequent DUI Offenses

At a duly called meeting of the Pueblo of Laguna Council held on the 4th day of April, 2014, the following resolution was adopted:

WHEREAS, the Pueblo of Laguna ("Pueblo") is a federally recognized Indian Tribe with all the inherent sovereign governing powers; and

WHEREAS, according to Title IV, Section 2(e) the Pueblo of Laguna Council is the governing body of the Pueblo, with the authority "to establish and enforce ordinances governing the conduct and civil relations of residents of the Pueblo and providing for the maintenance of law and order and the administration of justice within the lands of the Pueblo; and

WHEREAS, according to Title IV, Section 2(k) the Pueblo of Laguna Council is the governing body of the Pueblo, with the authority to promote the public health and welfare; and

WHEREAS, the Pueblo Council deems it necessary to prescribe offenses to prohibit the obstruction of law enforcement officers, detention and probation/parole officers in the course of their duties; and

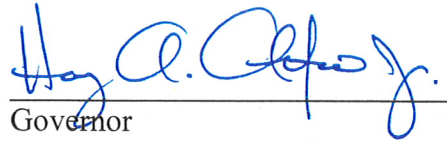
WHEREAS, the Pueblo Council deems it necessary to prescribe offenses to prohibit the consumption, use, procurement and possession of intoxicants by individuals under twenty-one; and

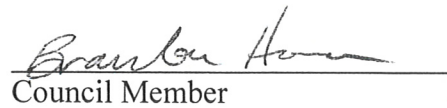
WHEREAS, the Pueblo Council deems it necessary to prescribe penal sentences in order to deter a third or subsequent offense of Driving While Under the Influence of Liquor, and that penalty imposed should be more severe than that imposed upon a second offense; and

WHEREAS, it is in the best interest of the Pueblo of Laguna to update the Criminal Code;

NOW, THEREFORE, BE IT RESOLVED by the Pueblo of Laguna Council that the attached Pueblo of Laguna Criminal Code Amendments to Title 15, Chapter 14 of the Criminal Code Offenses section of the Pueblo of Laguna Law and Order Code are hereby adopted with the same being incorporated herein and made a part of this resolution;

BE IT FURTHER RESOLVED, that the date of this Resolution shall be the effective date of the Pueblo of Laguna Criminal Code amendments to Title 15, Chapter 14 of the Pueblo of Laguna Law and Order Criminal Code Offenses code.


Governor


Council Member


Council Member

ATTEST:

Charles Ponce
Pueblo Secretary

CERTIFICATION

The foregoing resolution was enacted upon by the Pueblo of Laguna Council on the 4th day of April, 2014, by a vote of 18 for and 0 opposed, at a duly called meeting at which a quorum of the Council was present.

Hayden A. Ochoa
Governor

ATTEST:

Charles Ponce
Pueblo Secretary

TITLE XV
CRIMINAL CODE

Chapter I. General Provisions

- Section 15-1-1. Title and effective date.
- Section 15-1-2. (Reserved.)
- Section 15-1-3. Purpose and construction.
- Section 15-1-4. Enforcement of Code.
- Section 15-1-5. Territorial jurisdiction.
- Section 15-1-6. Time limitations.
- Section 15-1-7. Burden of proof.
- Section 15-1-8. Double jeopardy.
- Section 15-1-9. General definitions.

Chapter 2. Criminal Liability, Justification and Responsibility

- Section 15-2-1. Acts or omissions to act.
- Section 15-2-2. Culpability-General requirements.
- Section 15-2-3. Ignorance or mistake.
- Section 15-2-4. Accomplice liability.
- Section 15-2-5. Intoxication.
- Section 15-2-6. Entrapment.
- Section 15-2-7. Affirmative defenses.
- Section 15-2-8. Mental disease or defect excluding responsibility.

Chapter 3. Sentencing

- Section 15-3-1. Sentencing.
- Section 15-3-2. Fines.
- Section 15-3-3. Probation.
- Section 15-3-4. Imprisonment.
- Section 15-3-5. Registration of sex offenders.
- Section 15-3-6. Banishment.

Chapter 4. Capital Offenses and Sentencing Procedures

- Section 15-4-1. Capital offenses and sentencing procedures generally.
- Section 15-4-2. Determination of sentence.
- Section 15-4-3. Imposing sentence of banishment.
- Section 15-4-4. Banishment proceeding.
- Section 15-4-5. Review of judgment and sentence of banishment.
- Section 15-4-6. Aggravating circumstances.
- Section 15-4-7. Mitigating circumstances.

Chapter 5. Offenses: Inchoate Offenses

- Section 15-5-1. Criminal attempt.
- Section 15-5-2. Criminal conspiracy.

Section 15-5-3. Solicitation.

Chapter 6. Offenses Against the Person

- Section 15-6-1. Definitions.
- Section 15-6-2. Criminal homicide.
- Section 15-6-3. Murder.
- Section 15-6-4. Manslaughter.
- Section 15-6-5. Negligent homicide.
- Section 15-6-6. Assault.
- Section 15-6-7. Aggravated assault.
- Section 15-6-8. Battery.
- Section 15-6-9. Contributing to the delinquency of a minor.
- Section 15-6-10. Kidnapping.
- Section 15-6-11. Harassment.
- Section 15-6-12. Stalking.
- Section 15-6-13. False imprisonment.
- Section 15-6-14. Custodial interference.

Chapter 7. Sexual Abuse

- Section 15-7-1. Definitions.
- Section 15-7-2. Aggravated sexual abuse.
- Section 15-7-3. Sexual abuse.
- Section 15-7-4. Sexual abuse of a minor or ward.
- Section 15-7-5. Duty to report child abuse.
- Section 15-7-6. Interference with the duty to report child abuse.
- Section 15-7-7. Indecent exposure.

Chapter 8. Sexual Exploitation and Other Abuse of Children

- Section 15-8-1. Definitions.
- Section 15-8-2. Sexual exploitation of children.
- Section 15-8-3. Selling or buying of children.

Chapter 9. Offenses Against the Family

- Section 15-9-1. Bigamy.
- Section 15-9-2. Incest.
- Section 15-9-3. Abandonment of a child.
- Section 15-9-4. Abuse of a child.
- Section 15-9-5. Child neglect.
- Section 15-9-6. Failure to send children to school.
- Section 15-9-7. Nonsupport of dependent.
- Section 15-9-8. Illicit cohabitation.

Chapter 10. Weapons

- Section 15-10-1. Definitions.
- Section 15-10-2. Unlawful carrying of a deadly weapon.

- Section 15-10-3. Negligent use of a deadly weapon.
- Section 15-10-4. Unlawful carrying of a deadly weapon on school premises.
- Section 15-10-5. Forfeiture of weapons.

Chapter 11. Offenses Against Property

- Section 15-11-1. Arson.
- Section 15-11-2. Reckless burning.
- Section 15-11-3. Criminal mischief.
- Section 15-11-4. Unauthorized graffiti.
- Section 15-11-5. Removal or destruction of protected places, burial sites and sacred objects.

Chapter 12. Theft and Related Offenses

- Section 15-12-1. Theft.
- Section 15-12-2. Robbery.
- Section 15-12-3. Burglary.
- Section 15-12-4. Aggravated burglary.
- Section 15-12-5. Theft by bad checks.
- Section 15-12-6. Credits cards.
- Section 15-12-7. Deceptive business practices.
- Section 15-12-8. Embezzlement.
- Section 15-12-9. Extortion.
- Section 15-12-10. Forgery.
- Section 15-12-11. Shoplifting.

Chapter 13. Falsification Offenses

- Section 15-13-1. Perjury.
- Section 15-13-2. Tampering with witnesses. Section
- 15-13-3. Tampering with evidence. Section 15-13-4.
- Tampering with public records. Section 15-13-5.
- Libel and slander.

Chapter 14. Offense Against the Public Order

- Section 15-14-1. Disobedience to lawful orders of the court.
- Section 15-14-2. Disorderly conduct.
- Section 15-14-3. Escape.
- Section 15-14-4. Maintaining or creating a public nuisance.
- Section 15-14-5. Misuse of entrusted property and government property.

Section 15-14-6. ~~Refusing to aid~~Obstructing an officer.

A. *Offense.* A person commits the offense of ~~obstructing~~ ~~refusing to aid~~ an officer if that person purposely or knowingly obstructs any police officer or other law enforcement official vested by the Pueblo of Laguna with authority in the lawful performance of his or her duties, such as detention officers and probation/parole officers.

B. *Sentence.* Any person found guilty of committing the offense of ~~obstructing~~ ~~refusing to aid~~ an officer shall be sentenced to a jail term not to exceed ninety (90) days ~~the maximum~~

~~allowed by law sixty (60) days~~, or be ordered to pay a fine not to exceed three hundred fifty dollars (\$350.00), or both.

Section 15-14-7. Obedience to police officers.

Section 15-14-8. Unlawful flight from pursuing law enforcement vehicle.

Section 15-14-9. Homicide by vehicle.

Section 15-14-10. Public officers and employees to obey chapter; exceptions.

Section 15-14-11. Racing on roadways.

Section 15-14-12. Throwing or dropping objects at moving vehicles.

Section 15-14-13. Resisting lawful arrest.

Section 15-14-14. Intoxication-Public or private.

Section 15-14-15. Intoxication by inhaling toxic vapors.

Section 15-14-16. Driving under the influence of intoxicating liquor.

Section 15-14-16. Driving under the influence of intoxicating liquor.

A.

Offenses.

(1)

It shall be unlawful for any person who:

(a)

Is **under the influence** of intoxicating liquor to **drive** any vehicle within the exterior boundaries of the Reservation;

(b)

Has an alcohol concentration of eight one-hundredths (.08) or more in his blood or breath to **drive** any vehicle within the exterior boundaries of the Reservation.

(2)

Aggravated **driving** while **under the influence** of intoxicating liquor is committed when a person:

(a)

Has an alcohol concentration of sixteen one-hundredths (.16) or more in his blood or breath while **driving** any vehicle within the Reservation;

(b)

Has caused bodily injury to a human being, both terms as defined in section 15-6-1, as a result of the unlawful operation of a motor vehicle while **driving under the influence** of intoxicating liquor; or

(c)

Refused to submit to testing, as provided for in section 15-14-17 below (Implied consent), and in the judgment of the court, based upon evidence of intoxication presented to the court, the person was **under the influence** of intoxicating liquor.

B.

Sentence. Any person convicted **under** this chapter shall be sentenced as

follows:

(1)

First offense.

(a)

A jail term not to exceed ninety (90) days, or a fine not to exceed five hundred dollars (\$500.00), or both; provided that if the sentence is suspended in whole or in part or is deferred, the period of probation may extend beyond ninety (90) days but shall not exceed one (1) year;

(b)

May be required to perform not less than fifty (50) hours of community service;

(c)

Court-ordered to attend a **driver** rehabilitation program for alcohol, also known as "DIA or DWI school"; and

(d)

Participation in other rehabilitative services as the court shall determine to be necessary.

(2)

*Aggravated **driving** while **under the influence**.*

(a)

Not less than forty-eight (48) consecutive hours in jail and up to ninety (90) days, jail or probation or a fine not to exceed five hundred dollars (\$500.00), or both; or suspended sentence as described in subsection B.(1)(a) above;

(b)

Not less than one hundred (100) hours of community service or a fine of five hundred dollars (\$500.00);

(c)

Court-ordered to attend DWI school and must pay the DWI class fee; and

(d)

Participation in other rehabilitative services as the court shall determine to be necessary.

(3)

Second offense. Upon a second conviction, the offender shall be sentenced to a jail term of not less than seventy-two (72) consecutive hours and not more than six (6) months, or be ordered to pay a fine not to exceed one thousand dollars (\$1,000.00), or both; provided that if the sentence is suspended in whole or in part, the period of probation may not extend beyond one (1) year. In addition to these penalties, the offender shall perform one hundred fifty (150) hours of community service; and shall participate in other rehabilitative services as the court shall determine necessary.

(a)

If an offender fails to complete, within a time specified by the

court, any community service, screening program, or treatment program ordered by the court, the offender shall be sentenced to not less than an additional seven (7) consecutive days in jail. Such penalty shall not be suspended or deferred or be taken **under** advisement.

(4)

Second aggravated offense. Upon a second conviction for aggravated **driving** while **under** the **influence** of liquor, the offender shall be sentenced to a jail term of not less than ninety-six (96) consecutive hours and not more than six (6) months, or be ordered to pay a fine not to exceed two thousand five hundred dollars (\$2,500.00), or both; provided that if the sentence is suspended in whole or in part, the period of probation may not extend beyond one (1) year. In addition to these penalties, the offender shall perform two hundred fifty (250) hours of community service, and shall participate in other rehabilitative services as the court shall determine necessary.

(a)

If an offender fails to complete, within a time specified by the court, any community service, screening program, or treatment program ordered by the court, the offender shall be sentenced to not less than an additional seven (7) consecutive days in jail. Such penalty shall not be suspended or deferred or be taken **under** advisement.

(5)

~~*Sentence for third or convictions.*~~ ~~Upon a third or subsequent conviction **under** this chapter, the offender shall be sentenced to a jail term of not less than six (6) months, which shall not be suspended or deferred or taken **under** advisement.~~ *subsequent offense.* Upon a third or subsequent conviction for driving while under the influence of liquor, the offender shall be sentenced to a jail term of not less than one hundred and eighty-two (182) consecutive days, which shall not be suspended or deferred, and not more than three hundred and sixty-four (364) days, or be ordered to pay a fine not to exceed two thousand five hundred dollars (\$2500.00), or both; provided that if the sentence exceeding one hundred eighty two (182) days is suspended in whole or in part, the period of probation may not extend beyond one (1) year. In addition to these penalties, the offender shall perform two hundred fifty (250) hours of community service, and shall participate in other rehabilitative services as the court shall determine necessary.

(a)

If an offender fails to complete, within a time specified by the court, any community service, screening program, or treatment program ordered by the court, the offender shall be sentenced to not less than an additional seven (7) consecutive days in jail. Such penalty shall not be suspended or deferred or be taken under

advisement.

- C. If any offender fails to complete, within a time specified by the court, any community service, screening program, treatment program, or DUI school, ordered by the court, the offender shall be sentenced to not less than an additional forty-eight (48) consecutive hours in jail. Any jail sentence imposed **under** this subsection for failure to complete court-ordered community service, screening or treatment or DUI school shall not be suspended, deferred or taken **under** advisement.
- D. On a first conviction **under** this chapter, any time spent in jail for the first offense prior to the conviction for that offense shall be credited to any jail sentence fixed by the court. A deferred sentence **under** this chapter shall be considered a first conviction for purposes of subsequent convictions.
- E. A conviction **under** Tribal or state law or county ordinance prescribing penalties for **driving** while **under** the **influence** of intoxicating liquor shall be deemed to be a conviction **under** this chapter for purposes of determining whether a conviction is a second or subsequent conviction.
- F. Any fines or fees which may be imposed pursuant to the conviction or other disposition of the offense **under** this chapter may be withheld from the offender's per capita distribution.
- G. "Conviction" means an adjudication or plea of guilty, and does not include imposition of a sentence.
- H. If a person is convicted of **driving** a motor vehicle while **under** the **influence** of intoxicating liquor, the trial judge shall be required to inquire into the past **driving** record of the person before sentence is entered in the matter.
- I. Upon conviction **under** this chapter, an offender shall be required to participate in and complete, within the time specified by the court, an alcohol or drug abuse screening program and, if necessary, a treatment program approved by the court. The court may order the offender to pay the costs of any court-ordered screening and treatment programs.

Section 15-14-17. Implied consent.

Section 15-14-18. Use of tests in criminal or civil actions.

Section 15-14-19. Reckless driving.

Section 15-14-20. Providing alcohol to minors.

Section 15-14-21. Consumption of Intoxicants by a Minor.

A. Offense. It shall be unlawful for a minor to intentionally consume and/or be under the influence of intoxicants. An intoxicant is defined as alcohol, any controlled substance as

defined in Pueblo of Laguna law, or any other substance that diminishes the ability to act with full mental and physical capabilities because of the ingesting, inhaling or injecting of such substance.

B. *Offense.* The legal presumption of being under the influence of alcohol shall be 0.02 grams per 210 liters recorded on any breath or blood alcohol test. However, any corroborating evidence collected by a peace officer that can prove a minor to be under the influence of alcohol to the slightest degree can be grounds for finding a minor in violation of this offense..

C. For purposes of this offense, “minor” means any person under twenty-one (21) years of age.

D. *Sentence.* Any person found guilty of Consumption of Alcohol by a Minor shall be sentenced to a jail term not to exceed 180 days and/or a term of probation not to exceed 364 days, the combination of jail term and probation term shall not exceed 364 days, , and/or a fine not to exceed \$100.00.

E. The sentence may be deferred at the discretion of the judge. The judge is authorized to use discretion to expunge this offense from an individual’s criminal record upon successful completion of a deferred sentence or any other proscribed sentence.

Section 15-14-22. Use, Procurement or Possession of Alcohol and Intoxicants by a Minor.

A. *Offense.* It shall be unlawful for any minor to be in possession, procure or attempt to procure alcohol and/or any other distilled spirits, wine, malt liquor, or beverage created for the purposes of intoxication.

B. *Use, procurement or possession of intoxicant.* No minor shall use, consume, procure or attempt to procure or be in possession of an intoxicant except pursuant to a prescription for the use of such intoxicant.

C. For purposes of this offense, “minor” means any person under twenty-one (21) years of age.

D. *Sentence.* Any person found guilty of Use, Procurement or Possession of Alcohol and Intoxicants by a Minor shall be sentenced to a jail term not to exceed 180 days, and a term of probation not to exceed 364 days, the combination of jail term and probation term shall not exceed 364 days and/or a fine not to exceed \$100.00.

E. The sentence may be deferred at the discretion of the judge. The judge is authorized to use discretion to expunge this offense from an individual’s criminal record upon successful completion of a deferred sentence or any other proscribed sentence.

Chapter 15. Narcotics and Dangerous Drugs

Section 15-15-1. Applicability.

Section 15-15-2. Definitions.

Section 15-15-3. Schedule of controlled substances.

Section 15-15-4. Prohibited acts.

Section 15-15-5. Attempt and conspiracy.

Chapter 16. Animals and Livestock

Section 15-16-1. Making false reports of livestock owned.

Section 15-16-2. Misbranding.

Section 15-16-3. Obstructing or interfering with livestock round-ups.

Section 15-16-4. Refusing to brand or mark livestock.

Section 15-16-5. Law Enforcement Animals

- A. In this section, the term, “law enforcement” animal means a dog employed by the Pueblo of Laguna for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, tracking, rescue, or other public safety purposes.
- B. Whoever willfully and maliciously harms any law enforcement animal, or attempts or conspires to do so, shall be fined no less than \$500.00, and/or a jail term not to exceed one hundred eighty (180) days.
- C. If the offense permanently disables or disfigures the animal, or causes serious bodily injury to or the death of the animal, the fine shall be no less than \$1500.00, and/or the maximum term of imprisonment shall not to exceed one year or the maximum term allowed by law.
- D. In addition to fines, any person found guilty of harming a law enforcement animal shall be ordered to pay restitution to the Pueblo of Laguna Public Safety Department in amounts to be determined by the Pueblo Court.